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10 Attorneys for Defendants
Blue Cross and Blue Shield of Kansas City
11 (erroneously sued as "Blue Cross and Blue Shield of
Kansas City, Inc."), Layne Christensen Company
12 Health and Welfare Plan, and Construction Industry
Laborers Welfare Fund
13

14 UNITED STATES DISTRICT COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 SOUTHERN DIVISION
17

18 DUAL DIAGNOSIS TREATMENT
19 CENTER, INC., a California corporation
et. al.,

20 Plaintiffs

21 v.

22 BLUE CROSS OF CALIFORNIA d/b/a
23 ANTHEM BLUE CROSS, *et al.*

24 Defendants
25
26
27
28

Case No. 8:15-cv-00736 DOC (RNBx)

**DECLARATION OF KATHY
CURREY IN SUPPORT OF
DEFENDANTS' JOINDER IN
OMNIBUS MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

Honorable Judge David O. Carter

DECLARATION OF KATHY CURREY

I, Kathy Currey, state as follows:

1. I am employed by Blue Cross and Blue Shield of Kansas City (“BCBSKC”) as Director of Operations. In that capacity, I am familiar with the relevant records maintained by BCBSKC in the ordinary course of its business, including, but not limited to, the relevant records pertaining to the plan(s) at issue in this matter. As such, I have personal knowledge of the facts set forth in this declaration, and if called upon as a witness, I could and would competently testify to these facts under oath.

2. In the First Amended Complaint, Plaintiffs allege that one of their facilities provided medical services to Patient 23 beginning on or about January 21, 2013. Plaintiffs allege that, during the relevant time period, Patient 23 was a participant or beneficiary of an ERISA-governed employee benefit plan. Plaintiffs further allege that that BCBSKC administered or insured benefits under such ERISA plan during the relevant time period.

3. Based on information from Plaintiffs’ counsel in this action and my research and review of BCBSKC’s records, I have confirmed that, during the relevant time period, Patient 23 was enrolled in the Preferred-Care Blue plan insured by BCBSKC. I have also identified the Health Benefits Contract (“Benefits Contract”) for Patient 23’s plan that was in effect during the relevant time period.

4. Pages 70-71 of Patient 23’s Benefits Contract contains the following provision regarding the non-assignability of benefits:

12. Assignment

You are required to assign all of Your right to payment under the Contract to Preferred and Participating Providers to the extent services are received from those providers. Except for assignment of claim payment to Preferred and Participating Providers, the Contract and all the rights, responsibilities and Benefits for Covered Services under it are personal to You. **You may not assign them in whole or in part, either before or after services have been received, to any other person, firm, corporation or entity.** All Benefits for Covered Services rendered by a

1 Non-participating Provider will always be paid directly to You.

2 However, any Covered Services provided under the Contract and
3 furnished by a facility of the uniformed services of the United States will
4 be paid to that facility if a proper claim is submitted by the provider.
Such claim will be paid with or without an assignment from You.

5 In addition, any Covered Services provided under the Contract and
6 furnished by a public Hospital or clinic will be paid to the public Hospital
or clinic if a proper claim is submitted by the provider and processed
before We have made Our payment. Such claim will be paid with or
without an assignment from You.

7 No payment for Covered Services will be made to the public Hospital or
8 clinic if payment for Covered Services has been made to You prior to
9 Our receipt of a claim from the public Hospital or clinic. Any payment
made to the public Hospital or clinic will satisfy Our liability to the
extent of that payment.

10
11 (Emphasis added.)

12 5. Attached as **Exhibit 1** is a true and correct copy of the Benefits Contract
13 for Patient 23 that was in effect on the dates of service in question and contains the
14 above-quoted anti-assignment provision. This document is maintained by BCBSKC
15 as part of its records in the ordinary course of its business.

16 6. In the First Amended Complaint, Plaintiffs also allege that one of their
17 facilities provided medical services to Patient 253 beginning on or about April 2,
18 2013. Plaintiffs allege that, during the relevant time period, Patient 253 was a
19 participant or beneficiary of the Layne Christensen Company Health and Welfare Plan
20 ("Layne Plan"). Plaintiffs further allege that that BCBSKC administered or insured
21 benefits under such ERISA plan during the relevant time period.

22 7. Based on information from Plaintiffs' counsel in this action and my
23 research and review of BCBSKC's records, I have identified the Benefits Contracts
24 for Patient 253's plan that was in effect during the relevant time period.

25 8. Pages 92-93 of the Benefits Contract for the Layne Plan, effective April
26 1, 2013, contains the following provision regarding the non-assignability of benefits:

12. Assignment

You are required to assign all of Your right to payment under the Contract to Preferred and Participating Providers to the extent services are received from those providers. Except for assignment of claim payment to Preferred and Participating Providers, the Contract and all the rights, responsibilities and Benefits for Covered Services under it are personal to You. **You may not assign them in whole or in part, either before or after services have been received, to any other person, firm, corporation or entity.** All Benefits for Covered Services rendered by a Non-participating Provider will always be paid directly to the Employee.

However, any Covered Services provided under the Contract and furnished by a facility of the uniformed services of the United States will be paid to that facility if a proper claim is submitted by the provider. Such claim will be paid with or without an assignment from You.

In addition, any Covered Services provided under the Contract and furnished by a public Hospital or clinic will be paid to the public Hospital or clinic if a proper claim is submitted by the provider and processed before We have made Our payment. Such claim will be paid with or without an assignment from You.

No payment for Covered Services will be made to the public Hospital or clinic if payment for Covered Services has been made to You prior to Our receipt of a claim from the public Hospital or clinic. Any payment made to the public Hospital or clinic will satisfy Our liability to the extent of that payment.

(Emphasis added.)

9. Pages 91-92 of the Benefits Contract for the Layne Plan, effective January 1, 2014, contains the same provision regarding the non-assignability of benefits.

10. Attached as **Exhibits 2 and 3** are true and correct copies of the Benefits Contracts for the Layne Plan that were in effect on the dates of service in question and contain the above-quoted anti-assignment provision. These documents are maintained by BCBSKC as part of its records in the ordinary course of its business.

11. In the First Amended Complaint, Plaintiffs also allege that one of their facilities provided medical services to Patient 235 beginning on or about February 10, 2015 and to Patient 249 beginning on or about February 17, 2015. Plaintiffs allege that, during the relevant time period, Patients 235 and 249 were participants or beneficiaries of the Construction Industry Laborers Welfare Fund ("CIL Plan").

1 Plaintiffs further allege that that BCBSKC administered or insured benefits under such
2 ERISA plan during the relevant time period.

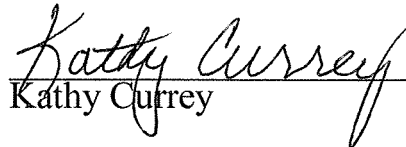
3 12. Based on information from Plaintiffs' counsel in this action and my
4 research and review of BCBSKC's records, I have identified the Summary Plan
5 Description/Plan Document for Patients 235 and 249's plan that was in effect during
6 the relevant time period.

7 13. Page 2 of the January 27, 2016 Summary of Material Modification for
8 the CIL Plan, effective January 1, 2014, contains the following provision regarding
9 the non-assignability of benefits: "A provider is not an Authorized Representative,
10 unless Claimant specifically designates the provider. **However, a Claimant may not**
11 **assign payment of any Claim to an out of network provider.**" (Emphasis added.)

12 14. Attached as **Exhibit 4** is a true and correct copy of the Summary Plan
13 Description/Plan Document, together with the Summary of Material Modifications,
14 for the CIL Plan that was in effect on the dates of service in question and contain the
15 above-quoted anti-assignment provision. These documents are maintained by
16 BCBSKC as part of its records in the ordinary course of its business.

17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct.

19 Executed this 22nd day of January 2016.

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22 Kathy Currey
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